

STATE OF MICHIGAN
DEPARTMENT OF LABOR AND ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE SERVICES

Before the Commissioner of Financial and Insurance Services

In the matter of:

FRANKLIN MORTGAGE & REALTY CO.
DBA FRANKLIN MORTGAGE GROUP
License/Registration No.: FL-0648

Enforcement Case No. 03-1838

Respondent.

Issued and entered
This 22nd day of January 2004
by Linda A. Watters
Commissioner of Financial and Insurance Services

FINAL DECISION

I
BACKGROUND

The Commissioner of the Office of Financial and Insurance Services (OFIS) is authorized under the Mortgage Brokers, Lenders, and Servicers Licensing Act (MBLSLA), MCL 445.1651 *et seq.* to license, renew a license, revoke, suspend or deny a license. Additionally, the Commissioner is authorized to assess penalties and civil fines for certain violations of the statute.

Further, licensees under the MBLSLA are obligated to submit an annual report and an annual financial statement. Should a licensee fail to submit the required reports, the Commissioner is authorized to take action against the licensee up to and including assessing penalties and civil fines and revoking the license.

On September 22, 2003, staff of OFIS sent to Respondent by first class mail with sufficient postage affixed, a Notice of Opportunity to Show Compliance.

On or about December 12, 2003, a Notice of Intention to Revoke License was issued in this matter and mailed to Respondent via certified mail. Respondent received the Notice of Intention to Revoke License on December 16, 2003. The notice advised Respondent that:

“Within twenty (20) days after the issuance of this Notice of Intention to Revoke License, you must file a written request for a hearing if you desire to contest the order. If you fail to timely file a request for a hearing the commissioner will enter a final order revoking your license and assessing the maximum civil penalty and late filing fee permitted by statute.”

Respondent failed to file a request for a hearing within 20 days of receiving said Notice of Intention to Revoke. Section 12(1) of the MBLSLA provides that if a hearing is not requested within 20 days after the notice of intention to revoke, the commissioner shall enter a final order regarding suspension or revocation.

Pursuant to Governor Engler’s Executive Order 2000-4, effective April 3, 2000, all authority, powers, duties, functions and responsibilities of the former Financial Institutions Bureau and its Commissioner were transferred to the Office of Financial and Insurance Services and its Commissioner, respectively.

II

ISSUE

The principal issue is whether Respondent failed to submit its December 31, 2002 financial statement in a timely manner as required by section 7(2) of the MBLSLA, MCL 445.1657(2).

III FINDINGS OF FACT

Based on the foregoing considerations, it is found that:

1. At all pertinent times, FRANKLIN MORTGAGE & REALTY CO. DBA FRANKLIN MORTGAGE GROUP (Respondent) was licensed by the Office of Financial and Insurance Services pursuant to the MBLSLA.
2. As a licensee, Respondent knew or had reason to know that Section 7(2) of the MBLSLA requires licensees to annually deliver to the commissioner a financial statement for its fiscal year, **not later than 90 days after the close of the fiscal year.**
3. Respondent further knew or had reason to know that pursuant to Section 7(2) of the MBLSLA, because of its fiscal year ending December 31, 2002, the financial statement must be filed no later than March 31, 2003.
4. Respondent failed to file its financial statement for the year ended December 31, 2002.
5. Section 12(1) of the MBLSLA provides that if a hearing is not requested within 20 days after the notice of intention to revoke, the commissioner shall enter a final order regarding suspension or revocation.
6. Respondent was provided proper notice of the opportunity for a hearing and the allegations and complaint.
7. Respondent has not requested a hearing in this matter.

IV CONCLUSIONS OF LAW

Based upon a review of applicable laws, it is concluded that:

1. Respondent violated section 7(2) of MBLSLA, supra, by failing to submit its December 31, 2002 financial statement in a timely manner. The financial statement is more than 40 days overdue.

V
ORDER

Therefore, it is ORDERED that:

1. Respondent's license is revoked.
2. For violating section 7(2) of MBLSLA, supra, and pursuant to section 8(6) of MBLSLA, supra, Respondent shall pay a penalty of \$1,000.
3. For violating section 7(2) of MBLSLA, supra, pursuant to section 29(2)(a) of the MBLSLA, supra, Respondent shall pay a civil fine of \$1,000.

Linda A. Watters
Commissioner of Financial and
Insurance Services